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Madurai that Sri Muthuramalinga Thevar was being implicated in the murder charge. So, while drafting a headline, I put in the news received from Madurai. I had separated it from the other news by punctuation and by a thick line.

It was only after I saw the news in print that I realized that it could be mistaken for an announcement by the Hon. Minister. A correction was published on 2nd November 1957.

I pray to be excused for the error, which I assure you is purely unintentional. I have no malice whatever towards anyone concerned.''

ANNEXURE IV.

26—11—1957 '' *தினத் தந்தி* '' *யிலிருந்து எடுக்கப்பட்ட உண்மையான நகல்.*

'' **30—10—1957** ' *தினத் தந்தி* ' *யில் முத்துராமலிங்கத் தேவர் மீது கொலை வழக்கு* ' *என்று பிரசுரமாகி இருக்கும் தலைப்பு தவறு. தவறு ஏற்பட்டதற்கு வருந்துகிறோம்.* ''

ANNEXURE V.

NOTE CIRCULATED TO THE COMMITTEE OF PRIVILEGES.

On the 1st November 1957, Sri K. Sattanatha Karayalar, M.L.A., raised a privilege issue that the headlines published on page 1 of the '' Dhina Thanthi '', City Edition, dated 30th October 1957, to the effect that there was a murder case against Sri U. Muthuramalinga Thevar and that Sri C. Subramaniam, Minister, made this statement in the Assembly on the 29th October 1957, constituted a breach of privilege of the House as no such statement was made either by the Minister or by any other member.

The headlines and report complained of are appended in Tamil).

Before giving his decision as to whether there was a *prima facie* case of breach of privilege, the Hon. Speaker wanted to have the views of the Members of the House. Both Sri M. Kalyanasundaram and the Hon. Sri C. Subramaniam said that there was a *prima facie* case. The Hon. Speaker, however, reserved his decision for the next day.

In the City Edition of the '' Dhina Thanthi '', dated 2nd November 1957, a news item was published under the heading '' Emmanuel Murder Case.'' This item did not refer to the previous day's headlines but simply stated that the Hon. Sri C. Subramaniam stated that a case will be filed in connexion with the murder of Emmanuel and that he did not make mention of any particular person who is to be charge-sheeted in this connexion. It was also

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a Vide Annexure I on page 384 supra

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stated in the above news item that as the matter was to go before a court, the Hon. Sri C. Subramaniam requested the Members not to refer to the murder of Emmanuel. Apart from this statement, the Editor has not tendered any apology through his paper.

Under Article 194 (3) of the Constitution, the powers, privileges and immunities of a House of the Legislature of a State and of the Members and the Committees of a House of such Legislature, shall be such as may from time to time be defined by the Legislature by law, and, until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom, and of its Members and Committees, at the commencement of the Constitution.

The right to publish debates and proceedings and the right to restrain publication by others as it obtains in England may be set out briefly as follows :—

" The House has long regarded speeches or writings which reflect upon it as among the acts which constitute a breach of privilege or contempt. In 1701, the House resolved that to print or publish any books or libels reflecting on the proceedings of the House is a high violation of the rights and privileges of the House [C.J. 1690-1702 (767)], and indignites by words spoken or writings published reflecting on the character or proceedings of the House have been constantly punished upon the principle that such acts tend to obstruct the House in the performance of its functions by diminishing the respect due to it. The House of Lords has also observed, the same principle in publishing spoken or written reflections as a contempt.

Reflections upon Members, even where individuals are not named, may be so framed as to bring into disrepute the body to which they belong, and such reflections have therefore been treated as equivalent to reflections on the House itself." (Sir Gilbert Campion.)

Even now, it is within the jurisdiction of either House to withhold its proceedings from the public, if it so desires, and to punish any violation of its orders. Each House, however, waives the privileges in this respect *so long as the published reports are accurate and fair.* If wilfully misleading or incorrect accounts of the debates are published, then those responsible for the publication will be punished, the technical ground for proceeding against them being that to publish the report at all is a breach of privilege.

The publication of parliamentary proceedings is protected by the same principle as that which protects the publication of proceedings in Courts of Justice, viz., that the advantage to the public, *negatives the presumption of malice* and *outweighs any disadvantage to individuals.* A fair and faithful report of the whole debate would not, therefore, be actionable. This does not, however, extend to the publication apart from the rest of the debate of an attack

made in Parliament upon an individual. A garbled or partial report or of detached parts of proceedings published with *intent* to injure individuals will also be disentitled to protection.

The following are instances of misconduct in connexion with the publication of debates which have been treated as breach of privilege :—

(1) Publishing scandalous misrepresentation of what had passed in either House or what had been said in debate.

(2) Publishing gross or wilful misrepresentations of particular members' speeches.

(3) Publication of false or perverted reports of debates or proceedings of either House or Committees of either House.

Some instances of berach of privilege by newspapers raised in the House of Commons are given below :—

(1) *Stuart case* (1805).

On 25th April 1805, a complaint was made of libellous statement in the "Daily Advertiser" to the effect that the King had been improperly advised in making a ministerial appointment. The printer and publisher (Mr. P. Stuart) was ordered to attend at the Bar of the House; he was guilty of breach of privilege, and committed to the custody of the Serjeant at Arms. A week later he was recalled to the Bar, reprimanded and discharged.

(2) *Hobhouse's case* (1819).

On 10th December 1819, a complaint was made of a pamphlet, in which it was suggested that only the existence of the Army saved the Members of the House from the wrath of the people, and that "nothing but brute force, or the pressing fear of it would reform Parliament." The publisher of the pamphlet, Robert Stodart, was ordered to attend at the Bar, and he declared that the author of the pamphlet was John Cam Hobhouse. The latter was adjudged guilty of a breach of privilege, and committed to Newgate Prison; no penalty was imposed upon Stodart.

(3) *Speaker's ruling on an article in "The Times"*.

With reference to an allegation in "The Times", "that certain Members drew at once their living and their notoriety from the steady perpetration of crimes for which civilization demands the gallows." Mr. Speaker made the following ruling on 22nd February 1887. "The rule is that, when imputations are made, in order to raise a case of privilege the imputations must refer to the action of Hon. Members in the discharge of their duties in the actual transaction of the Business of the House." No prima facie case of breach of privilege was therefore established.

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(4) " *Observer* " *case* (1940).

On the 27th May, a complaint was made that in the " Observer " newspaper of the 25th day of May an article purporting to give an account of the debate in secret session on the 21st May was published which constituted a breach of privilege. The editor, Mr. J. L. Garvin and Mr. J. L. Nixon, the Lobby Correspondent of the " Observer " gave eidence before the Committee of Privileges. The Committee while being of the opinion that the publication of the article constituted a breach of privilege and recommended that in view of the unqualified regret expressed by the editor and the explanation given by the correspondent that no further action need be taken in the case.

(5) *The* " *Daily Mail* " *case* (1947).

On a complaint made on the 8th March that the publication of certain statements by one Mr. Colm Brogan, in a broadcast and an interview which later took place between Mr. Brogan and a reporter of the " Daily Mail " in the same paper constituted a breach of privilege, it was referred to a Committee of Privileges. Some of the observations made by Mr. Brogan in the course of his broadcast were recorded in the script of the B.B.C. as ' untranscribable ' or ' unintelligible ' and these might have possibly qualified the offensive statement attributed to him. Apart from the lack of first-class evidence on the nature of the broadcast, the general tenor of his remarks indicated an apprehension that in the event of a future crisis, the Labour Members in Parliament would reveal themselves in what he alleged to be their true colours as members of the Communist Party and would act traitorously.

The Committee held that this incident fell under the category of incidents which it would be inconsistent with the dignity of the House and of the Committee to examine further and that the process of Parliamentary investigation should not be used in a way which would give importance to irresponsible statements.

(6) *The Patricia Ford case* (1953).

On a complaint made on the 28th day of April that the publication of an article entitled " What a Baptism " by Patricia Ford, M.P., in the " Sunday Express " newspaper of the 26th April, constituted a breach of privilege as it contained reflections on Mrs. Braddock, another Member, it was referred to the Committee of Privileges. The article was the result of an interview which one of the reporters of the " Sunday Express " had with Patricia Ford, a new Member, about her week in Parliament.

As the correspondent and the editor expressed deep regret for anything in the article which had caused offence, and apologised most profoundly through the Committee to the House, and to Mrs. Braddock, with regard to whom a mis-statement on a matter of fact had been made, the Committee recommended that no further action need be taken in the matter.

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In the Madras Legislature, in December 1953, the " Dinamani " of Madras characterised the speech of a member as " Maranavasthai Prasangam " and the nature of his speech as " Veriattam ". A complaint was made that it amounted to a breach of privilege as the Member who made that speech stated that he might not be a Member of the Assembly next time and not that it was his last " Maranavasthai " speech. The paper then wrote a leaderette on the morning of the 22nd December 1953 and stated that as the Member himself had stated that he might not be in the Assembly and that he was speaking for the last time in the Assembly, his speech was given the heading " Maranavasthai prasangam " on the analogy of the phrase " swan song " in English and that a paragraph heading was given as " Veriattam ". Inasmuch as the Member took objection to it, the editor expressed his regret and stated that it was not his intention to commit any breach of privilege or cast any reflection on any Member. The Speaker ruled that, in view of the explanation, no prima facie case had been made out.

In May 1875, the House of Commons rejected a motion made by Lord Hartington, " That this House will not entertain any complaint in respect of the publication of the debates or proceedings of the House, or of any Committee thereof, except when such debates and proceedings shall have been conducted with closed doors, or when such publication shall have been expressly prohibited by the House or any Committee, or in case of wilful misrepresentation or other offence in relation to such publication ".

In the present case, the speech was misrepresented in the first instance even though a correction was issued subsequently. According to parliamentary practice, the publishers are liable to punishment when the debates are so reported mala fide. As stated previously a garbled or partial report published with *intent* to injure individuals will also be disentitled to protection. Therefore the question for consideration is as to whether the misrepresentation of the speech in the first instance was published with intent to injure the Minister, whether it was male fide.

FORT ST. GEORGE, T. HANUMANTHAPPA,
MADRAS-9, *Secretary.*
8*th November* 1957.